

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of : RENEE FRENGUT
Serial No. : 09/883,590
Filed : June 18, 2001
For : INTERNET BASED QUALITATIVE
RESEARCH METHOD AND SYSTEM
Examiner : Andre Boyce
Art Unit : 3623
Our File No. : 1017.8002

CERTIFICATION OF E-MAILING

I hereby certify that this correspondence, and any attachments thereto, is being filed via electronic mail with the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313.1450 on the date indicated below.

<u>Daniel S. Polley</u>	<u>/Daniel S Polley/</u>	<u>March 24, 2008</u>
Name of Person Mailing Paper	Signature	Date

REPLY BRIEF

In response to the Examiner's Answer, Applicant replies as follows:

Initially, Applicant wishes to correct one sentence in its Appellant Brief which is missing a word. The sentence appears in the first full paragraph on page 12, and is discussing the e-focusgroup.com website. The sentence should state:

"This back and forth written correspondence does not yield the live audio visual online study provided by Applicant's claimed system and method."

Examiner's (10) Response to Argument

Argument 1. Applicant respectfully disagrees that Ludwig discloses going outside the company setting. Furthermore, the term focus group has an understood meaning, which is not disclosed

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anywhere in Ludwig. Specifically, is known to be a form of qualitative research in which a group of people are asked about their attitude towards a product, service, concept, advertisement, idea or packaging. Questions are asked in an interactive group setting where participants are free to talk with other group members. Applicant's use of focus group is consistent with this well defined meaning of the term "focus group". On the other hand, the Examiner is extremely stretching the definition of "focus group" to include internal company meetings disclosed in Ludwig.

Applicant respectfully disagrees with the Examiner's remaining comments in Argument 1 based on Applicant's arguments expressed in Applicant's Appellant Brief which is incorporated by reference.

Argument 2. Applicant respectfully disagrees with the Examiner's comments in Argument 2 based on Applicant's arguments expressed in Applicant's Appellant Brief which is incorporated by reference.

Argument 3. Applicant respectfully submits that the client, not the participants communicate in private with the moderator and view the participants without the participants knowing. Additionally, seen the typed text of another participant is not the same as seeing the facial expressions and is not an interaction as being used by Applicant. Applicant respectfully disagrees with the Examiner's remaining comments in Argument 3 based on Applicant's arguments expressed in Applicant's Appellant Brief which is incorporated by reference.

Argument 4. Applicant respectfully disagrees with the Examiner's remaining comments in Argument 4 based on Applicant's arguments expressed in Applicant's Appellant Brief which is incorporated by reference.

Argument 5. Applicant respectfully disagrees with the

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Examiner's comments that the Examiner did give weight to Appellant's Rule 132 Declaration. Initially, Applicant notes that prior to the Examiner's Answer, the Examiner has never commented on Appellant's Rule 132 Declaration and all of the Exhibits attached to the Declaration. Furthermore, even a cursory review of the Declaration readily reveals that Applicant's Declaration contained more than a mere allegation of copying by Applicant's competitors. The Examiner merely cites case law which has no material relevance to the subject matter of the Applicant's Declaration. It is the Examiner who is merely making conclusory allegations and statements, not Applicant.

Applicant respectfully disagrees with the Examiner's remaining comments in Argument 5 based on Applicant's arguments expressed in Applicant's Appellant Brief which is incorporated by reference.

The Examiner has failed to show how one skilled in the art would combine Ludwig with efocusgroups.com. It is the Examiner, not Applicant, with the mere bald conclusions throughout the Examiner's Answer as opposed to a specific rationale why the proposed combination would be obvious. Applicant also submits that the proposed combination still fails to teach Applicant's invention. Applicant has also specifically discussed in one of its Declarations the painstaking steps of Applicant required before the invention was completed. Furthermore, another of Applicant's Declarations details that the leaders in Applicant's field, despite being in business prior to Ludwig and efocusgroups.com and despite have much larger technical capabilities and manpower, were only recently able to come up with competing technologies, which are in fact covered by one or more of the claims pending in this Appeal. Furthermore, Applicant's Declaration also specifically referenced that these industry companies are referring to their

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technologies as industry breakthroughs. All of this highly important testimony has been completely ignored by the Examiner, and is also unchallenged by the Examiner.

In view of the above arguments, Applicant/Appellant again respectfully submits that the pending claims are properly allowable over the references relied upon by the Examiner. Favorably action is respectfully requested.

WHEREFORE, Applicant again respectfully submits that the appealed claims are allowable over the prior art of record and Applicant respectfully requests the Board to reverse the Examiner's rejections, and pass this case to allowance.

Any additional charges, including Extensions of Time, please bill our Deposit Account No. 503180.

Respectfully submitted,
DANIEL S. POLLEY, P.A.

By: /Daniel S. Polley/
Daniel S. Polley #34,902

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